IN THE HIGH COURT FOR THE STATES OF PUNJAB AND HARYANA AT CHANDIGARH

COCP No.945 of 2005
Date of decision: September 21, 2006.

Shiv Ram

...**Petitioner(s)**

v.

Shri D.S. Dhesi, IAS

...**Respondent(s)**

Present: Shri Ram Niwas Lohan, Advocate for the petitioner.

Shri Kamal Sharma, Addl. Advocate General, Haryana

Surya Kant, J. (Oral)

The petitioner filed CWP No.14742 of 2002, in which the official respondents took up the stand that the seniority list of the category to which the petitioner belonged, was being finalized and after finalization thereof, if it were found that any person junior to him had been promoted earlier, "he will be given the same benefit." In view of the above stated stand, the writ petition was disposed of vide order dated 8.3.2004, with the following observations:-

> "In view of the above submissions, we direct that the respondents hall, within six months from today, finalize the seniority list and in case the petitioner is found entitled to any benefit thereupon, the same shall be given to him within two months thereafter with all consequential benefits."

Alleging non-compliance of the aforesaid order, this contempt

petition has been filed.

In response to the show cause notice, an affidavit has been filed by Mr. D.S. Dhesi, IAS, Transport Commissioner, Haryana and along with the said affidavit, he has appended a copy of the order dated 2.1.2006 vide which the petitioner has been promoted as Clerk w.e.f. 1.8.1998, "from the date his junior Shri Sandeep Kumar was promoted as Clerk in the grade of Rs.3050-75-3950-EB-80-4590/-. In the aforesaid promotion order, it is stated that the petitioner, "will be entitled to all consequential benefit except the arrears of pay as he had not actually worked on the post of Clerk."

It is contended by Learned Counsel for the petitioner that since it was directed by the Division Bench vide order dated 3.8.2004 that the petitioner, if found entitled to any benefit, the same shall be granted "with all consequential benefits", the petitioner cannot be denied the arrears of pay as he never refused to work on the promotional post, therefore, the respondents cannot take advantage of their own wrong.

On the other hand, Learned State Counsel, states that since in terms of the directions issued by this Court, the petitioner's case has been considered on the basis of the revised seniority list, the directions stand complied with.

After hearing Learned Counsel for the parties and having regard to the import and spirit of the order dated 8.3.2004 passed by this Court in CWP No.14742 of 2002, I am of the view that the "consequential benefits" shall include the arrears of pay also, more so when the petitioner was denied promotion from the due date on account of an erroneous administrative action of the authorities. However, the directions having been substantially complied with, this petition is disposed of with a

direction to the Transport Commissioner, Haryana to release the consequential benefit of arrears of pay also in favour of the petitioner within a period of two months from today.

Disposed of.

Rule discharged.

September 21, 2006. [**Surya Kant**]
kadyan **Judge**